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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,246	04/06/2006	Kouchirou Taniguchi	266004US0XPCT	5377
22850 7590 09/02/2010 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
KRUEER, KEVIN R				
ART UNIT		PAPER NUMBER		
1787				
NOTIFICATION DATE		DELIVERY MODE		
09/02/2010		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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### Office Action Summary

**Application No.**

10/525,246

**Applicant(s)**

TANIGUCHI ET AL.

**Examiner**

KEVIN R. KRUEER

**Art Unit**

1787

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CIS)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO99/62987 (Taniguichi) in view of WO 2001/090227 (Seta). Herein, US 6,541,123 is utilized as an English translation of WO99/62987 and US 2003/0143415 is relied upon as an English translation of WO WO/2001/090227.

Taniguichi teaches a polyolefin film for stretch wrap packaging. The film has a storage modulus of  $5 \times 10^8$  dyn/cm<sup>2</sup> to  $5 \times 10^9$  dyn/cm<sup>2</sup> and a loss tangent of 0.2 to 0.8 (abstract). The core of the film comprises (a) an isotactic polypropylene resin, (b) a petroleum resin, a terpene resin, a rosin type resin, or a hydrogenated derivative thereof, (c) a second polypropylene component such as a crystalline polypropylene ethylene random copolymer or propylene ethylene butene copolymer (col 8, lines 11+) and (d) a copolymer of a vinyl aromatic compound with a conjugated diene (col 7, lines 1+). The petroleum resin can have a melting point of 100°C and is incorporated in amounts of 5-25wt% (col 7, lines 30+). The isotactic polypropylene comprises 40-90wt% of the composition (col 5, lines 50+). The polypropylene film may be sandwiched between skin layers (see examples) which comprise ethylene vinyl acetate

or LDPE (col 10, lines 14+). The EVA may comprise 5-25wt% vinyl acetate and has a melt flow rate of 0.2-5g/10min (col 10, lines 27+).

Taniguchi does not teach the polypropylene resin should comprise the claimed polypropylene resin. However, Serta teaches a polypropylene which is suitable for use in stretch wrap shrink films (abstract). The polypropylene meets the meso pendant fraction limitation (1) and the claimed meso pentad fraction (2) of the claimed invention (abstract) and exhibits excellent glossiness and transparency (0019). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the polypropylene of Serta as the polypropylene taught in Taniguchi in order to improve the gloss and transparency of the shrink wrap film.

With regard to claim 7, the examiner takes the position that the ranges taught in Taniguchi are sufficiently specific to anticipate the claimed amounts. Alternatively, Taniguchi teaches the amount of isotactic polypropylene and petroleum should be optimized based upon packaging efficiency, elastic modulus and loss tangent (col 5, lines 50+ and col 7, lines 13+). Furthermore, the amount of propylene copolymer is selected in order to optimize the low temperature flexibility of the film (col 8, lines 11+). Thus, it would have been obvious to one of ordinary skill in the art to optimize the amount of each of said components in order to optimize the film's loss tangent, low temperature flexibility, and elastic modulus.

### ***Response to Arguments***

Applicant's arguments filed 6/29/2010 have been fully considered but are not persuasive.

Applicant argues Taniguichi does not disclose or suggest a polypropylene resin having controlled stereoregularity satisfying requirements (1) and (2). Said argument is noted but is not persuasive as Taniguichi was never relied upon for such a teaching. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant further argues when the racemic pentad fraction is in excess of 0.1 the feed material pellets may become sticky and aggregated during storage. Said argument is noted but the correlation between aggregation and the racemic pentad fraction is not unexpected. Specifically, the prior art recognizes aggregation will increase as the ratio increases (see US 7,173,099).

With respect to Taniguichi in view of Seta, Applicant argues Seta is drawn to a single-layer film or a multilayer film wherein the propylene polymer constitutes the outer layer. Said argument is noted but is not persuasive because Seta was never relied upon to teach the use of the propylene composition in the interior layer. Rather, Taniguichi was relied upon for said teaching. Furthermore, the propylene taught in Seta possesses the properties desired from the propylene in Taniguichi (transparency, flexibility, etc.)

Applicant further argues that the teachings of Taniguichi and Seta are not combinable because their technologies are not analogous. Specifically, applicant argues Taniguichi is drawn to a stretch packaging film whereas Seta relates to a wrap

or shrink film. Said argument is noted but is not persuasive because wrap films and stretch packaging films are analogous in that they are used for the same purpose and have the same desirable properties.

With respect to claim 7, said arguments are not persuasive for the reasons noted above. Specifically, the claimed ranges are rendered obvious by the teachings of Taniguichi.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN R. KRUEER whose telephone number is (571)272-1510. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin R Kruer/

Primary Examiner, Art Unit 1787